

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 9558 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

DAHOD URBAN CO-OPERATIVE BANK LTD.

Versus

B M KADIA

ASST.CO-OP. OFFICER

Appearance:

1. Criminal Misc.Application No. 9558 of 2001
MR AJAY R MEHTA for Petitioners No. 1-1/9
DS AFF.NOT FILED (N) for Respondent No. 1
MR PANCHOLI, APP, for Respondent No. 2

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 28/12/2001

ORAL JUDGEMENT

1. The petitioners seek quashment of the complaint lodge against them vide Criminal Case No.1240 of 1997 by

Co-operative Officer attached to the office of the District Registrar, Co-operative Societies, Godhra, for offences punishable under Sections 71 and 147(1)(d) of the Gujarat Co-operative Societies Act, 1961.

2. Petitioner No.1 is a co-operative bank which is represented by petitioners No.1.1 to 1.12, who happen to be either Chairman, Directors, Secretary or Assistant Manager of the said bank.

2.1 The bank had invested an amount of Rs.2 crores with C.R.B. Capital Markets Limited by resolutions passed by the bank on August 24, 1996 and September 2, 1996. The said C.R.B. Capital Markets Limited, ultimately, went into liquidation and an amount of Rs.7, 45,041/- could not be recovered from the said institution. It is the case of the complainant against the petitioners that the said investment was in breach of the provisions of Section 147(1)(d) and, therefore, they may be proceeded against and punished for the said breach.

3. Learned advocate Mr. Mehta appearing for the petitioner has drawn attention of this Court to the fact that the complaint was lodged on June 10, 1997. Admittedly, the resolutions in question were dated August 24, 1996 and September 2, 1996. The punishment prescribed for the offence with which the petitioners have been charged is only fine of Rs.500/- and considering the provisions Section 468 of the Code of Criminal Procedure, such complaint can be lodged within six months from the date of commission of crime and, therefore, this complaint is time barred and the same may be quashed. Learned advocate Mr. Mehta has placed reliance on a judgment and order of this Court passed in Criminal Misc. Applications No.7990, 7991 and 5112 of 1999 with Criminal Misc. Application No.3860 of 1999, passed on December 19, 2000 (Coram: A.K. Trivedi, J., as he then was) wherein identical question was dealt with and the complaints were quashed.

4. Learned Additional Public Prosecutor, Mr. Pancholi, has opposed this petition.

5. There is no dispute about the aspects narrated above, i.e. regarding the dates of resolutions and the complaint. There is no dispute regarding the prescribed punishment either and in this view of the matter, considering the provisions of Section 468 of Code of Criminal Procedure, the complaint ought to have been lodged within six months from the passing of the

resolutions for making investments with C.R.B. Capital Markets Limited. That having not been done, the complaint is time barred. The learned Magistrate ought not to have passed the order summoning the accused persons.

6. The petition, therefore, deserves to be allowed and the same is allowed. The complaint, i.e. Criminal Case No.1240 of 1997 of the Court of learned Judicial Magistrate, First Class, Dahod, and the consequential proceedings are hereby quashed. Rule is made absolute accordingly.

[A.L. DAVE, J.]

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